



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/743,823	08/22/2001	Corrado Fogher	B-4075PCT 618484-4	8610
7590 10/03/2003			EXAMINER	
Ladas & Parry 5670 Wilshire Blvd Suite 2100 Los Angeles, CA 90036-5679			BUI, PHUONG T	
			ART UNIT	PAPER NUMBER
			1638	

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/743,823	<b>Applicant(s)</b> FOGHER, CORRADO	
	<b>Examiner</b> Phuong T. Bui	<b>Art Unit</b> 1638	

**-- Th MAILING DATE of this communication appears on the cover sheet with the correspondenc address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-58 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 1638

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-9 and 14-28, drawn to polynucleotide, cell and method, including the 7s basic globulin leader and the 7s basic globulin promoter.

Group II, claim(s) 1-5, and 10-28, drawn to polynucleotide, cell and method, including the beta conglycinine leader and the beta conglycinine promoter.

Group III, claim(s) 1-5, 8-11 and 14-28, drawn to polynucleotide, cell and method, including the 7s basic globulin leader and the beta conglycinine promoter.

Group IV, claim(s) s 1-7 and 12-28, drawn to polynucleotide, cell and method, including the beta conglycinine leader and the 7s basic globulin promoter.

Group V, claim(s) s 29-34 and 41-49, drawn to a plant expression cassette, including the 7s basic globulin promoter.

Art Unit: 1638

Group VI, claim(s) 35-40 and 50-58, drawn to a plant expression cassette, including the beta conglycinine promoter.

2. The inventions listed as Groups I-VI do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group I and Group II share a special technical feature, the human lactoferrin sequence which does not represent a contribution over the art as evidenced by Lommerdal 1995. Groups I and III share a special technical feature, the 7s basic globulin leader which does not represent a contribution over the art as evidenced by Shewry et al. 1995. Groups II and IV share a special technical feature, the beta conglycinine leader which does not represent a contribution over the art as evidenced again by Shewry et al. 1995. Groups I, IV and V share a special technical feature, the 7s basic globulin promoter which does not represent a contribution over the art as evidenced again by Shewry et al. 1995. Groups II, III and VI share a special technical feature, the beta conglycinine promoter which does not represent a contribution over the art as evidenced again by Shewry et al. 1995.

3. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Papers relating to this application may be submitted to Technology Sector 1 by facsimile transmission. Papers should be faxed to Crystal Mall 1, Art Unit 1638, using fax number (703) 308-4242. All Technology Sector 1 fax machines are available to receive transmissions 24

Art Unit: 1638

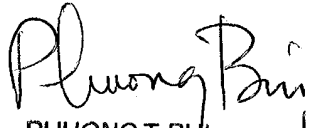
hrs/day, 7 days/wk. Please note that the faxing of such papers must conform with the Notice published in the Official Gazette, 1096 OG 30, (November 15, 1989).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Bui whose telephone number is (703) 305-1996. The Examiner can normally be reached Monday-Friday from 6:30 AM - 4:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Amy Nelson, can be reached at (703) 306-3218.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0196.

Phuong Bui  
Primary Examiner  
Group Art Unit 1638  
September 28, 2003

  
PHUONG T. BUI  
PRIMARY EXAMINER 9/29/03